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MOC Policy Letter 05-03

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To: Distribution

Subj: OPERATOR REQUIREMENTS FOR FOREIGN FLAGGED CRUISE SHIPS USING
LIFEBOATS AS TENDERS

Ref: (a) Title 46, U. S. Code Section 8902, "Small Passenger Vessels"
(b) Title 46, U. S. Code Section 3303, "Reciprocity for Foreign Vessels"
(c) Title 46, U. S. Code Section 3505, "Prevention of Departure"

1. Purpose. This policy letter outlines acceptable manning and licensing requirements for foreign flagged cruise ship lifeboats used as tenders to ferry passengers from ship to shore at U. S. ports.
2. Action. Field units shall use the following guidance during examinations of foreign flagged cruise ships. This guidance does not apply to U.S. flag cruise ships for which the Coast Guard has exclusive authority under reference (a) and Title 46, Code of Federal Regulations Subchapter B to specify manning and licensing requirements.
3. Directives Affected. This policy letter supplements the guidance in the Marine Safety Manual, Volume II, Section B, Chapter 4, Subchapter W, "Launches and Lifeboat Uses" relative to launch operator licensing requirements.
4. Background and Information.
 - a. The Non-Conformity: Field units located in cruise ship destination ports raised the concern that often, when a cruise ship lays offshore at anchor, the ship uses its launches or lifeboats (tenders) to ferry passengers between the ship and port and that the operators of those vessels are not licensed individuals under ref (a). The field units pointed to reference (a) as the standard/authority requiring a licensed operator.
 - b. Evaluating the Non-Conformity:
 1. Reference (b) provides reciprocity for vessels of a country having inspection laws and standards similar to those of the United States.

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2. Notwithstanding reference (b), reference (c) limits such reciprocity in a way that requires passenger vessels embarking passengers in U. S. ports (or visiting U. S. ports with U. S. citizens as passengers) to comply with SOLAS. Although 46 USC 3505 mandates a form of port state control, it also requires a more detailed vessel examination than that performed under port state control authority.
3. In view of 46 USC 3303, the Coast Guard considers a foreign flag state signatory to SOLAS (such as Bahamas) to have inspection laws and standards similar to those of the United States. A flag Administration that issues the SOLAS certificates (the foreign equivalent of a U.S. COI) to a vessel also determines the appropriate certification for the tender operator. Stated simply, **where a foreign tender carries SOLAS certificates or the tender is included on the "Record of Equipment for the Passenger Ship Safety Certificate", 46 USC 8902 does not apply.**

c. Conclusion and Analysis.

1. Ultimately, a flag Administration signatory to SOLAS is responsible for setting manning and licensing requirements for "tender coxswains". Where a cruise line has established a training program for "tender coxswains" and the SOLAS signatory flag Administration (for example, Bahamas) has specifically agreed that the course content substantially covers the competencies that a person undertaking responsibility as a coxswain, for a passenger ship tender should have, the requirements of references (b) and (c) are met.
2. The Coast Guard has obligations as a port state under STCW. The convention at Article X(1) subjects signatory vessels to the control of a port state only "to verify that all seafarers serving on board who are required to be certificated by the convention are so certificated." In our examinations verifying compliance with STCW, we should not impose US-specific licensing standards on the foreign tenders any more so than we would on the foreign "mother ship."
3. For the purpose of applying the reciprocity provisions of 46 USC 3303 to a foreign vessel, the close nexus between a tender and its ship makes it unreasonable to consider the tender as an independent small passenger vessel. A tender is often an integral part of the ship's lifeboat complement, with operations continuously monitored by the ship and not severable from the ship for that reason.

5. Implementation. During regularly scheduled examinations of foreign-flagged cruise ships and as part of vessel lifeboat drills, check licenses, certificates, and related flag Administration issued documentation for personnel operating lifeboats for those lifeboats operated as tenders.

- a. Where a foreign tender carries SOLAS certificates or the tender is included on the "Record of Equipment for the Passenger Ship Safety Certificate", tender operators shall meet the certification/licensure requirements established by the flag Administration. This may include a certified lifeboatman who has completed a company training program accepted by the flag Administration.

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- b. During Control Verification Examinations, the inspector should ask to see a copy of the accepted training program and/or a copy of the flag Administration's acceptance letter for the training program.
- c. In rare cases where a foreign tender carries a USCG-issued Certificate of Inspection, because it does not hold SOLAS certificates discussed above, tender operators shall be licensed deck officers (under STCW or under appropriate USCG licensing requirements).

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Cc: CG LANTAREA (Am)
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